

## **Summary of Key Changes to 36 CFR Part 800**

**Section 800.4 Identification of Historic Properties.** The Council can no longer require a Federal agency to change its finding that *no historic properties are present or that historic properties are present but will not be affected* by the proposed undertaking. However, if a SHPO/THPO or any consulting party objects to an agency's finding within 30 days, the agency must notify all consulting parties and submit its finding to the Council for review. If the Council provides an advisory opinion within the 30 day review period, the agency must consider the opinion and respond with a summary of its final decision. The ACHP may also object on its own initiative to an agency effect finding under this section, and will maintain a record of agency responses to Council opinions.

**Section 800.5 Assessment of Adverse Effects.** The Council also can no longer require a federal agency to change its determination on *whether historic properties will be adversely affected* by an undertaking. However, if the SHPO or any consulting party disagrees with the agency's finding during the 30 day review period, the agency shall either resolve the disagreement or request the Council's review and notify consulting parties. If the ACHP provides the agency with an advisory opinion objecting to the finding, the agency takes that opinion into account in reaching a final decision and provides a summary of the decision to the Council and consulting parties.

**Section 800.8 Coordination with the National Environmental Policy Act.** Where a SHPO/THPO or Indian tribe that might attach religious and cultural significance to affected historic properties or other consulting party objects to an agency official that an Environmental Assessment, Draft Environmental Impact Statement or Environmental Impact Statement has not met applicable standards under 36 CFR part 800 or that resolution of effects is inadequate, the agency official shall refer the matter to the Council. If the Council agrees with the objection, the agency shall take the Council's opinion into consideration in reaching a final decision, and provide a summary of that decision to the Council and consulting parties.

**Section 800.14 Federal agency program alternatives.** New amendments also provide for the Council to initiate the process of designating a category of actions as exempted from Section 106 review. Formerly only agencies could initiate this process.

**Section 800.16 Definitions.** The amendments revise the definition of "Undertaking" to remove projects, activities or programs that are subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency. A definition for "Senior Policy Official," as the person identified pursuant to the Executive Order #13287 *Preserve America* section 3(e) report is added to this section.